

The below described is **SIGNED**.

Dated: November 6, 2013



R. KIMBALL MOSIER
U.S. Bankruptcy Judge



IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

In re:

Emily Rushton,

Debtor.

Utah Labor Commission,

Plaintiff,

v.

Emily Rushton,

Defendants.

Bankruptcy Number: 10-26338

Chapter 7

Judge R. Kimball Mosier

Adversary Number: 13-2351

MEMORANDUM IN SUPPORT OF REMAND ORDER

On June 25, 2009, the Utah Labor Commission issued an Order on Default and order to pay \$24,042 on unpaid wage claims (Administrative Order based upon U.C.A. § 34-28-9). Debtor filed bankruptcy on May 12, 2010. Debtor's chapter 13 plan was confirmed on Sept 30, 2010. On December 20, 2010, the Utah Labor Commission filed a "Judgment Information Statement" in case no. 106943222 in the Third Judicial District Court for the District of Utah.

In response to the Utah Labor Commission's efforts to collect on its judgment in case no. 106943222, the Debtor commenced this adversary proceeding and removed Civ. no. 106943222 from the Third Judicial District Court for the District of Utah to this Court.

Federal Rule of Bankruptcy Procedure 9027(a)(3) governs with respect to civil actions removed from state court to the bankruptcy court after commencement of the debtor's bankruptcy proceeding. Rule 9027(a)(3) provides that

If a claim or cause of action is asserted in another court after the commencement of a case under the Code, a notice of removal may be filed with the clerk only within the shorter of (A) 30 days after receipt, through service or otherwise, of a copy of the initial pleading setting forth the claim or cause of action sought to be removed, or (B) 30 days after receipt of the summons if the initial pleading has been filed with the court but not served with the summons.

Because the Debtor's notice of removal was filed well beyond the 30 day limit allowed under Rule 9027(a)(3), this matter must be remanded to state court.

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DESIGNATION OF PARTIES TO BE SERVED

Service of the foregoing **Memorandum in Support of Remand Order** shall be served to the parties and in the manner designated below:

By Electronic Service: I certify that the parties of record in this case as identified below, are registered CM/ECF users and will be served notice of entry of the foregoing Order through the CM/ECF system:

markmedcalf@utah.gov

kass@utahjobjustice.com

rachel@utahjobjustice.com

lauren@utahjobjustice.com

By U.S. Mail - In addition to the parties of record receiving notice through the CM/ECF system, the following parties should be served notice pursuant to Fed R. Civ. P. 5(b).

David M. Rushton
10711 S Cedar Brook Pl
South Jordan, UT 84095